

ESTTA Tracking number: **ESTTA672268**

Filing date: **05/14/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	86172232
Applicant	Crane USA, Inc.
Correspondence Address	F WILLIAM MCLAUGHLIN WOOD PHILLIPS KATZ CLARK & MORTIMER 500 W MADISON ST , STE 1130 CHICAGO, IL 60661-2556 UNITED STATES docketing@woodphillips.com, fwmclaughlin@woodphillips.com, docketing@woodphillips.com
Submission	Reply Brief
Attachments	doc05163220150514114342.pdf(791229 bytes)
Filer's Name	F. William McLaughlin
Filer's e-mail	fwmclaughlin@woodphillips.com
Signature	/F. William McLaughlin/
Date	05/14/2015

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:) Mark:
)
Crane USA, Inc.)
)
Serial No.: 86/172,232) Examining Attorney: Anthony M. Rinker
)
Filed: January 22, 2014) Law Office: 102

REPLY BRIEF

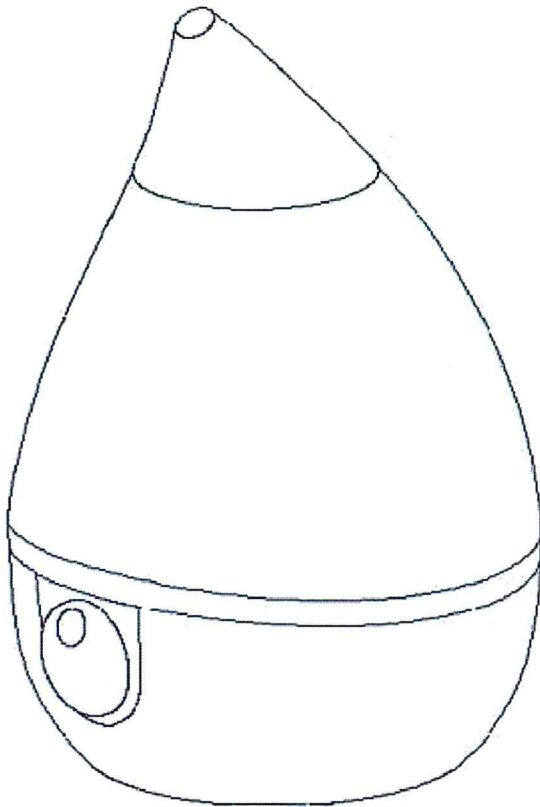
Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

Sir:

This brief is in reply to the Examining Attorney's Appeal Brief.

ARGUMENT

Applicant seeks registration of the mark shown in the drawing.



The mark is a two-dimensional line drawing. The fact that the two-dimensional line drawing may illustrate a device which happens to be a three-dimensional humidifier is interesting, but not controlling. For marks consisting of a configuration of the goods, the drawing must depict a single three-dimensional view of the goods, and the applicant “must indicate that the mark is a three-dimensional mark.” See 37 C.F.R. §2.52(b)(2). The applicant did not do so. The drawing does not depict the depth of the humidifier or show it

as a three-dimensional drawing. It is a line drawing. Nor did applicant indicate that the mark is three-dimensional. Thus, the mark must be viewed as two-dimensional.

In filing an application, an applicant chooses to register a mark in whatever form it desires. Applicant could have chosen to file an application to register the three-dimensional product design. Applicant did not. Applicant seeks to register a two-dimensional mark. The fact that the line drawing depicts a three-dimensional product does not change this fact. The drawing is a two-dimensional view, not a three-dimensional view. It is applicant's intentions, which are consistent with the rules, discussed above, that should be controlling in this matter.

Because applicant requests registration of a two dimensional design, and not a three dimensional object, the requirement for product information should be reversed and the refusal based on the mark being non-distinctive trade dress should be reversed and the requirement for a configuration drawing and description be reversed.

Such action is requested.

Respectfully submitted,

Date: May 14, 2015


F. William McLaughlin

WOOD, PHILLIPS, KATZ,
CLARK & MORTIMER
Citigroup Center, Suite 1130
500 West Madison Street
Chicago, IL 60661
(312) 876-2120